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EXAMINER

MURRAY, DANIEL C

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/825,570	Applicant(s) HODSON ET AL.	
	Examiner DANIEL C. MURRAY	Art Unit 2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. This Action is in response to Applicant's amendment filed on 22DEC2010. **Claims 1-40** are now pending in the present application. **This Action is made FINAL.**

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 1-14** rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. **Claims 2-14** are rejected by virtue of their dependency on **claim 1**.

➤ **Claim 1**, line 7; it is unclear whether "the resource" after wherein is the first resource or the second resource. For the purposes of examination "the resource" is being interpreted as the first resource.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. **Claims 1,2, 4-6, 8-9, 15-20, 22-23, 29-34, 36-37, and 40** are rejected under 35 U.S.C. 102(e) as being anticipated by **McKinnon et al. (US 2004/0133647 A1)**.

a) Consider **claim 1**, McKinnon et al. clearly show and disclose, a method of processing information within a computer system, such method comprising the steps of: sending a SIP SUBSCRIBE message from a first computer resource of the computer system to a presentity server of the computer system, the presentity server separate from the first computer resource, the SIP SUBSCRIBE message identifying a second resource separate from the presentity server and requesting a status of the second resource where the second resource performs a predetermined service for the first resource (figure 3, abstract, paragraph [0005], [0020], [0021], [0027], [0028], [0029], [0031]) and wherein the resource searches for the presentity server upon being activated (inherent from the teachings of McKinnon since a resource would necessarily have to search for a presentity server upon activation in order to register a presence)(paragraph [0023]) and registers a presence with the presentity server (paragraph [0023]); sending a SIP NOTIFY message from the presentity server to the first resource notifying the first resource of the status of the second resource (abstract, paragraph [0005], [0021], [0027], [0028], [0029], [0031]).

b) Consider **claim 2**, and **as applied to claim 1 above**, McKinnon et al. clearly show and disclose, the method of for processing information as in claim 1 further comprising the first resource requesting the predetermined service from a third resource when the second resource is not available (paragraph [0018], [0019], [0023], [0033], [0034], [0035], [0040], [0041], [0042]).

c) Consider **claim 4**, and **as applied to claim 3 above**, McKinnon et al. clearly show and disclose, the method as in claim 3, wherein the resource sends a SIP SUBSCRIBE message to the presentity server identifying the automatic, contact distributor and requesting status information regarding the automatic contact distributor (paragraph [0002], [0004], [0026], [0027], [0031], [0037]).

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d) Consider **claim 5**, and **as applied to claim 4 above**, McKinnon et al. clearly show and disclose, the method of processing information as in claim 4, wherein the presentity server further confirms that the automatic contact distributor is registered with the presentity server and sends a SIP SUBSCRIBE message to the automatic contact distributor requesting a SIP NOTIFY message from the automatic contact distributor in response to confirming registration (paragraph [0002], [0004], [0023], [0026], [0027], [0031], [0037], [0038], [0039]).

e) Consider **claim 6**, and **as applied to claim 5 above**, McKinnon et al. clearly show and disclose, the method of processing information as in claim 5, wherein the requested status further comprises determining whether the automatic contact distributor is available or unavailable and the automatic contact distributor forwarding the SIP NOTIFY message containing notification of availability of the automatic contact distributor to the presentity server and to the first computer resource in response to the SIP SUBSCRIBE message sent from the presentity server to the automatic call distributor (paragraph [0002], [0004], [0018], [0019], [0023], [0040], [0041], [0042]).

f) Consider **claim 8**, and **as applied to claim 5 above**, McKinnon et al. clearly show and disclose, the method of processing information as in claim 5 wherein-automatic call distributor forwards the NOTIFY message containing a loading level of the call distributor to the presentity server and the first computer resource (figure 7a, figure 7b, paragraph [0040], [0041], [0042], [0043]).

g) Consider **claim 9**, and **as applied to claim 8 above**, McKinnon et al. clearly show and disclose, the method of processing information as in claim 8 wherein the second resource further comprises a call routing application of the automatic call distributor (paragraph [0029], [0030]) and wherein a report generator sends a SIP SUBSCRIBE message to the presentity server requesting status of the first resource and second resource and in response receives data for generating reports

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(figure 3, abstract, paragraph [0005], [0018], [0019], [0020], [0021], [0023], [0027], [0028], [0029], [0031]).

h) Consider **claim 29**, McKinnon et al. clearly show and disclose, an apparatus for processing information within a computer system, such an apparatus comprising: a first computer resource and a second computer resource being adapted to send a SIP SUBSCRIBE message from a first computer resource of the computer system to a presentity server of the computer system, the presentity server separate from the first computer resource, the SIP SUBSCRIBE message identifying a second resource separate from the presentity server and requesting a status of the second resource where the second resource performs a predetermined service for the first resource (figure 3, abstract, paragraph [0005], [0020], [0021], [0027], [0028], [0029], [0031]); sending a SIP NOTIFY message from the presentity server to the first resource notifying the first resource of the status of the second resource (abstract, paragraph [0005], [0021], [0027], [0028], [0029], [0031]).

i) Consider **claim 30**, and **as applied to claim 29 above**, McKinnon et al. clearly show and disclose, the apparatus for processing information as in claim 29 further comprising the first resource requesting the predetermined service from a third resource when the second resource is not available (paragraph [0018], [0019], [0023], [0033], [0034], [0035], [0040], [0041], [0042]).

j) Consider **claim 15**, McKinnon et al. clearly show and disclose, an apparatus for processing information within a computer system, such apparatus comprising: means for sending a SIP SUBSCRIBE message from a first computer resource of the computer system to a presentity server of the computer system, the presentity server separate from the first computer resource, the SIP SUBSCRIBE message identifying a second resource separate from the presentity server and requesting a status of the second resource, where the second resource performs call transfers for the first resource based upon the type of each call (figure 3, abstract, paragraph [0005], [0020], [0021],

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[0027], [0028], [0029], [0031]); means for sending a SIP NOTIFY message from the presentity server to the first resource notifying the first resource of the status of the second resource (abstract, paragraph [0005], [0021], [0027], [0028], [0029], [0031]); and means for transferring the calls to a third resource when the second resource is not available (paragraph [0018], [0019], [0023], [0033], [0034], [0035], [0040], [0041], [0042]).

k) Consider **claim 16**, and **as applied to claim 15 above**, McKinnon et al. clearly show and disclose, the apparatus for processing information as in claim 15 further comprising the first resource requesting the call transfers from a third resource when the second resource is not available (paragraph [0018], [0019], [0023], [0033], [0034], [0035], [0040], [0041], [0042]).

l) Consider **claims 17 and 31**, and **as applied to claim 15 and 29 above**, McKinnon et al. clearly show and disclose, the apparatus for processing information as in claims 15 and 29 wherein the computer system further comprises an automatic call distribution system (paragraph [0002], [0028], [0040]) and wherein the presentity server further confirms that they first resource is registered with the presentity server and forwards the SIP SUBSCRIBE message to the second resources requesting a SIP notify message from the second resource (paragraph [0020], [0023], [0037], [0038]).

m) Consider **claims 18 and 32**, and **as applied to claims 17 and 31 above**, McKinnon et al. clearly show and disclose, the apparatus for processing information as in claims 17 and 31 wherein the first and second resources further comprise call distributors of the automatic call distribution system (abstract, paragraph [0033], [0034], [0035], [0036], [0040], [0041], [0042]) and wherein the second resources sends the SIP NOTIFY message to the presentity server in response to the SIP SUBSCRIBE message (paragraph [0020], [0023], [0037], [0038]).

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n) Consider **claim 33**, and **as applied to claim 32 above**, McKinnon et al. clearly show and disclose, the apparatus for processing information as in claim 32 wherein the predetermined service further routing calls to agents (abstract, paragraph [0036], [0040], [0041], [0042]).

o) Consider **claim 19**, and **as applied to claim 18 above**, McKinnon et al. clearly show and disclose, the apparatus for processing information as in claim 18 wherein the call transfers comprise routing calls to agents (abstract, paragraph [0033], [0034], [0035], [0036], [0040], [0041], [0042]).

p) Consider **claims 20 and 34**, and **as applied to claims 19 and 33 above**, McKinnon et al. clearly show and disclose, the apparatus for processing information as in claims 19 and 33 wherein the requested status further comprises determining whether the second call distributor is available or unavailable (paragraph [0018], [0019], [0023], [0040], [0041], [0042]).

q) Consider **claims 22 and 36**, and **as applied to claims 15 and 29 above**, McKinnon et al. clearly show and disclose, the apparatus for processing information as in claims 15 and 29 wherein the computer system further comprises an automatic call distributor (paragraph [0002], [0028], [0040]).

r) Consider **claims 23 and 37**, and **as applied to claims 22, and 36 above**, McKinnon et al. clearly show and disclose, the apparatus for processing information as in claims 22 and 36 wherein the second resource further comprises a call routing application of the automatic call distributor (paragraph [0029], [0030]).

s) Consider **claim 40**, and **as applied to claim 29 above**, McKinnon et al. clearly show and disclose, the apparatus for processing information as in claim 29 further comprising a reconfiguration processor which subscribes to a status of the first resource, detects whether the first resource has gone offline thereby becoming; an offline resource, and in response to such a detection,

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instructs a proxy server to redirect to another resource any calls that would have gone to the offline resource (McKinnon; figure 7a, figure 7b, paragraph [0040], [0041], [0042]).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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9. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over **McKinnon et al. (US 2004/0133647 A1)** in view of **Santharam et al. (US Patent # US 7,395,336 B1)(hereafter Santharam)**.

a) Consider **claim 3**, and **as applied to claim 1** above, McKinnon et al. clearly show and disclose, the method of processing information as in claim 1, wherein the second resource is an automatic contact distributor which searches for the presentity server upon being activated and registers a presence by sending a SIP REGISTER message to the presentity server (paragraph [0002], [0004], [0028], [0030], [0040]). However, McKinnon et al. does not specifically disclose sending a SIP REGISTER message including an expiration time period.

Santharam shows and discloses a wireless device may connect to a telecommunications network and register with a Session Initiation Protocol server. The Session Initiation Protocol server may notify a network element on the telecommunications network of the wireless device's registration, wherein Santharam discloses sending a SIP REGISTER message including an expiration time period (column 15 lines 27-49).

One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Santharam and McKinnon since both concern network communication systems using SIP protocol and as such, both are with in the same environment.

Therefore, it would have been obvious to one of ordinary skill in the art that the time the invention was made to incorporate a SIP REGISTER message including an expiration time period, as taught by, Santharam into the system of McKinnon for the purpose of deregistering devices after the expiration of the time period (Santharam; column 15 lines 27-34), thereby allowing the device to be deregistered at the SIP server.

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10. **Claims 7, 21, and 35** are rejected under 35 U.S.C. 103(a) as being unpatentable over **McKinnon et al. (US 2004/0133647 A1)** in view of **Chaney et al. (US Patent Publication # US 2003/010800 A1)** in further view of **Wolff (US Patent # US 6,185,601 B1)**.

a) Consider **claim 7**, and **as applied to claim 6 above**, McKinnon et al. clearly show and disclose, the method as in claim 6, wherein the step of determining the availability of the automatic call distributor (paragraph [0002], [0004], [0028], [0040]). However, McKinnon et al. does not specifically disclose a loading level of the automatic call distributor with a threshold level and determining that the automatic call distributor is unavailable when the loading level exceeds the threshold level and determining that the automatic call distributor is available when the loading level does not exceed the threshold.

Chaney et al. show and disclose a system and method of providing access to services in a telecommunications network utilizing the Session Initiation Protocol (SIP) wherein determining the availability of the automatic call distributor comprises comparing a loading level of the automatic call distributor (abstract, paragraph [0015], [0040]).

Therefore, it would have been obvious to one of ordinary skill in the art that the time the invention was made to incorporate the teachings of Chaney et al. into the system of McKinnon et al. for the purpose of making call distribution more efficient by preventing any one call distributor from becoming overloaded. However, McKinnon et al. as modified by Chaney et al. does not specifically disclose comparing a loading level of the automatic distributor with a threshold level and determining that the automatic distributor is unavailable when the loading level exceeds the threshold level and determining that the automatic distributor is available when the loading level does not exceed the threshold.

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Wolff shows and discloses a system for distributing the I/O request load over the components of a network. More particularly, a system for distributing the responsibility for carrying out I/O requests among various servers on a network, wherein Wolff discloses comparing a loading level of the automatic distributor with a threshold level and determining that the automatic distributor is unavailable when the loading level exceeds the threshold level and determining that the automatic distributor is available when the loading level does not exceed the threshold (abstract, column 2 lines 52-62, column 11 lines 34-41, column 25 lines 26-33 lines 48-53).

Therefore, it would have been obvious to one of ordinary skill in the art that the time the invention was made to incorporate dynamic load balancing based on thresholds, as taught by, Wolff into the system of McKinnon et al. as modified by Chaney et al. for the purpose of for the purpose of making call distribution more efficient by preventing any one call distributor from becoming overloaded.

b) Consider **claims 21 and 35**, and **as applied to claims 20 and 34 above**, McKinnon et al. clearly show and disclose, the apparatus for processing information as in claims 20 and 34, wherein the step of determining the availability of the second call distributor. However, McKinnon et al. does not specifically disclose a loading level of the second call distributor with a predetermined threshold level and determining that the second call distributor is unavailable when the loading level exceeds the predetermined threshold level and determining that the second call distributor is available when the loading level does not exceed the predetermined threshold.

Chaney et al. show and disclose a system and method of providing access to services in a telecommunications network utilizing the Session Initiation Protocol (SIP) wherein determining the availability of the second call distributor comprises comparing a loading level of the second call distributor (abstract, paragraph [0015], [0040]).

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Therefore, it would have been obvious to one of ordinary skill in the art that the time the invention was made to incorporate the teachings of Chaney et al. into the system of McKinnon et al. for the purpose of making call distribution more efficient by preventing any one call distributor from becoming overloaded. However, McKinnon et al. as modified by Chaney et al. does not specifically disclose comparing a loading level of the second call distributor with a predetermined threshold level and determining that the second call distributor is unavailable when the loading level exceeds the predetermined threshold level and determining that the second call distributor is available when the loading level does not exceed the predetermined threshold.

Wolff shows and discloses a system for distributing the I/O request load over the components of a network. More particularly, a system for distributing the responsibility for carrying out I/O requests among various servers on a network, wherein Wolff discloses comparing a loading level of the second call distributor with a predetermined threshold level and determining that the second call distributor is unavailable when the loading level exceeds the predetermined threshold level and determining that the second call distributor is available when the loading level does not exceed the predetermined threshold (abstract, column 2 lines 52-62, column 11 lines 34-41, column 25 lines 26-33 lines 48-53).

Therefore, it would have been obvious to one of ordinary skill in the art that the time the invention was made to incorporate dynamic load balancing based on thresholds, as taught by, Wolff into the system of McKinnon et al. as modified by Chaney et al. for the purpose of for the purpose of making call distribution more efficient by preventing any one call distributor from becoming overloaded.

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11. **Claims 10, 24, and 38** are rejected under 35 U.S.C. 103(a) as being unpatentable over **McKinnon et al. (US 2004/0133647 A1)** in view of **Gray et al. (US Patent Publication US 2005/0100157 A1)**.

a) Consider **claims 10, 24, and 38**, and as applied to **claims 9, 23, and 37** above, McKinnon et al. clearly show and disclose, the method and apparatus of/for processing information as in claims 9, 23, and 37. However, McKinnon et al. does not specifically disclose the first resource further comprises a call classification application of the automatic call distributor that determines a call type of an incoming call.

Gray et al. show and disclose a context aware call processing architecture for effecting user-defined features wherein the first resource further comprises a call classification application of the automatic call distributor that determines a call type of an incoming call (abstract, paragraph [0008], [0009], [0053]).

Therefore, it would have been obvious to one of ordinary skill in the art that the time the invention was made to incorporate the teachings of Gray et al. into the system of McKinnon et al. for the purpose of handling calls based on context information.

12. **Claims 11-14, 25-28, and 39** are rejected under 35 U.S.C. 103(a) as being unpatentable over **McKinnon et al. (US 2004/0133647 A1)** as modified by **Gray et al. (US Patent Publication US 2005/0100157 A1)** in view of **Chaney et al. (US Patent Publication # US 2003/010800 A1)** in further view of **Wolff (US Patent # US 6,185,601 B1)**.

a) Consider **claims 11, 25, and 39**, and as applied to **claims 10, 24, and 38** above, McKinnon et al. as modified by Gray et al. clearly show and disclose, the method and apparatus of/for processing information as in claims 10, 24, and 38. However, McKinnon et al. as modified by

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Gray et al. does not specifically disclose defining the status as being a loading level of the call routing application.

Chaney et al. show and disclose a system and method of providing access to services in a telecommunications network utilizing the Session Initiation Protocol (SIP) wherein determining the availability of the second call distributor comprises comparing a loading level of the second call distributor (abstract, paragraph [0015], paragraph [0040]).

Therefore, it would have been obvious to one of ordinary skill in the art that the time the invention was made to incorporate the teachings of Chaney et al. into the system of McKinnon et al. as modified by Gray et al. for the purpose of making call distribution more efficient by preventing any one call distributor from becoming overloaded. However, McKinnon et al. as modified by Gray et al. as further modified by Chaney et al. does not specifically disclose comparing a loading level of the second call distributor with a threshold level and determining that the second call distributor is unavailable when the loading level exceeds the threshold level and determining that the second call distributor is available when the loading level does not exceed the threshold.

Wolff shows and discloses a system for distributing the I/O request load over the components of a network. More particularly, a system for distributing the responsibility for carrying out I/O requests among various servers on a network, wherein Wolff discloses comparing a loading level of the second call distributor with a threshold level and determining that the second call distributor is unavailable when the loading level exceeds the threshold level and determining that the second call distributor is available when the loading level does not exceed the threshold (abstract, column 2 lines 52-62, column 11 lines 34-41, column 25 lines 26-33 lines 48-53).

Therefore, it would have been obvious to one of ordinary skill in the art that the time the invention was made to incorporate dynamic load balancing based on thresholds, as taught by, Wolff

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into the system of McKinnon et al. as modified by Gray et al. as further modified by Chaney et al. for the purpose of for the purpose of making call distribution more efficient by preventing any one call distributor from becoming overloaded.

b) Consider **claims 12 and 26**, and **as applied to claims 11 and 25 above**, McKinnon et al. as modified by Gray et al. as modified by Chaney et al. as further modified by Wolff clearly show and disclose, the method and apparatus of/for processing information as in claims 11 and 25 further comprising defining the loading level as a call queue length (McKinnon et al. figure 7a, figure 7b, paragraph [0040], [0041], [0042], [0043]; Chaney et al. abstract, paragraph [0015], [0040]).

c) Consider **claims 13 and 27**, and **as applied to claim 12 and 26 above**, McKinnon et al. as modified by Gray et al. as modified by Chaney et al. as further modified by Wolff clearly show and disclose, the method and apparatus of/for processing information as in claims 12 and 26 further comprising determining that the routing application is unavailable when the loading level exceeds a predetermined threshold and available when the routing application does not exceed the predetermined threshold (Chaney et al. abstract, paragraph [0015], paragraph [0040]).

d) Consider **claim 14**, and **as applied to claim 13 above**, McKinnon et al. as modified by Gray et al. as modified by Chaney et al. as further modified by Wolff clearly show and disclose, the method of processing information as in claim 13 further comprising the call classification application requesting the predetermined service from a third resource when the call routing application is not available (McKinnon; paragraph [0018], [0019], [0023], [0033], [0034], [0035], [0040], [0041], [0042]; Chaney; abstract, [0015], [0040]).

e) Consider **claim 28**, and **as applied to claim 27 above**, McKinnon et al. as modified by Gray et al. as modified by Chaney et al. as further modified by Wolff clearly show and disclose, the apparatus for processing information as in claim 27 wherein the call classification application

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requesting the third resource when the call routing application is not available (McKinnon; paragraph [0018], [0019], [0023], [0033], [0034], [0035], [0040], [0041], [0042]; Chaney; abstract, [0015], [0040]).

Response to Arguments

13. Applicant's arguments filed 22DEC2010 have been fully considered but they are not persuasive.

In response to this and future Office Actions the Examiner respectfully requests that Applicant *clearly delineate* what claimed features Applicant alleges the references do not disclose from Applicants arguments on why the Applicant thinks the references do not disclose those features in order to expedite prosecution. While the Examiner believes he was able to discern what Applicant's arguments were with respect to the present case at times it was difficult to determine exactly what Applicant was attempting to argue. If Applicant has any questions or concerns regarding this response Applicant is strongly encouraged to contact the Examiner and schedule an interview.

Applicant argues the SUBSCRIBE message is not requesting status of the second resource separate from the presentity server but instead requests a subscription between presentities within the presentity server. Similarly, any other resource (participating device) does not send the SUBSCRIBE message to the presentity server to request status of another device, even if they do request relationships with presentities.

The Examiner respectfully disagrees; as stated in the previous Office Action, McKinnon clearly discloses sending messages between the presentity server and separate devices (paragraph [0020]). McKinnon discloses a communication network 10 supports communications between a plurality of watcher devices 12, a presence server 14 providing one or more logical presentities 16,

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and numerous event sources 18. The watcher devices 12 are the entities that subscribe to the presentities 16 of the presence system to receive presence information based on changes in state of event sources 18 associated with a corresponding presentity 16. The presentity 16 determines changes in state by receiving event notifications from one or more of the event sources 18 via the presence server 14 or like presence function, processes the event notifications to create presence information, and delivers the presence information to the subscribing watcher devices 12 as necessary. *The presence function may be centralized or distributed in presence servers 14 or other devices.*

Furthermore, McKinnon clearly discloses other resources (participating devices) also use the SUBSCRIBE/NOTIFY messages to establish a relationships with presentities (figure 3, paragraph [0005], [0027], [0031], [0033], [0034], [0040], [0041]) and as such isn't limited to just watcher devices. McKinnon also clearly discloses that each of the resources 20 (watcher devices and participant devices) has its own presentity 16 and the resources are separate from the presentity server 14 (figure 3, paragraph [0026], [0027]). The presentity server and the presentities thereon are clearly providing availability information (abstract, paragraph [0018], [0019]) to the resources with which they are associated, therefore the SUBSCRIBE/NOTIFY messages being sent between presentities is equivalent to sending the SUBSCRIBE/NOTIFY messages between the resources themselves (i.e. the presentities are functionally part of the associated resource). Furthermore, McKinnon clearly discloses that each of the participant devices are represented by a particular presentity in the presences system and that the presentities communicate with the participant devices (paragraph [0026], [0027], [0039]). Therefore, McKinnon clearly discloses sending messages between the presentity server and separate devices as well as sending messages within a presentity server itself ().

McKinnon clearly discloses that other resources (participating devices) also use the SUBSCRIBE/NOTIFY messages to establish a relationships with presentities McKinnon also

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discloses that SUBSCRIBE/NOTIFY messages being sent between presentities themselves. It is clear that SUBSCRIBE/NOTIFY messages are sent between both the presentities themselves and the participating devices and the presentities using SIP SUBSCRIBE/NOTIFY messages. It is also clear that any status request sent from one participating device requesting the status of another participating device is using SIP SUBSCRIBE/NOTIFY messages to request the status of another participating device. In other words the participating device is subscribing to determining the status of another participating device rather than the status of a presentity as Applicant seems to be arguing.

Therefore, the SUBSCRIBE message is requesting status of the second resource separate from the presentity server.

Applicant argues that “McKinnon does not send the SIP NOTIFY message from the second resource to the separate first resource to notify status of the second, but rather sends the NOTIFY messages between presentities within the presence server.”

The Examiner respectfully disagrees; as stated in the previous Office Action, McKinnon clearly discloses sending messages between the presentity server and separate devices (paragraph [0020]). McKinnon discloses a communication network 10 supports communications between a plurality of watcher devices 12, a presence server 14 providing one or more logical presentities 16, and numerous event sources 18. The watcher devices 12 are the entities that subscribe to the presentities 16 of the presence system to receive presence information based on changes in state of event sources 18 associated with a corresponding presentity 16. The presentity 16 determines changes in state by receiving event notifications from one or more of the event sources 18 via the presence server 14 or like presence function, processes the event notifications to create presence

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information, and delivers the presence information to the subscribing watcher devices 12 as necessary. *The presence function may be centralized or distributed in presence servers 14 or other devices.*

Furthermore, as stated in the previous Office Actions McKinnon clearly disclose other resources (participating devices) also use the SUBSCRIBE/NOTIFY messages to establish a relationships with presentities (figure 3, paragraph [0005], [0027], [0031], [0033], [0034], [0040], [0041]) and as such isn't limited to just watcher devices. McKinnon also clearly discloses that each of the resources 20 (watcher devices and participant devices) has its own presentity 16 and the resources are separate from the presentity server 14 (figure 3, paragraph [0026], [0027]). The presentity server and the presentities thereon are clearly providing availability information (abstract, paragraph [0018], [0019]) to the resources with which they are associated, therefore the SUBSCRIBE/NOTIFY messages being sent between presentities is equivalent to sending the SUBSCRIBE/NOTIFY messages between the resources themselves (i.e. the presentities are functionally part of the associated resource). Furthermore, McKinnon clearly discloses that each of the participant devices are represented by a particular presentity in the presences system and that the presentities communicate with the participant devices (paragraph [0026], [0027], [0039]). Therefore, McKinnon clearly discloses sending messages between the presentity server and separate devices as well as sending messages within a presentity server itself.

Therefore, McKinnon clearly discloses sending messages between the presentity server and separate devices as well as from a presentity server communicating within itself (Office Action dated 22JUN2010).

McKinnon clearly discloses sending the SIP NOTIFY message from the second resource to the separate first resource to notify status of the second as well as sending the NOTIFY messages between presentities within the presence server. McKinnon clearly discloses the presence function

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may be centralized or distributed in presence servers *or other devices* and that other resources (participating devices) also use the SUBSCRIBE/NOTIFY messages to establish a relationships with presentities (figure 3, paragraph [0005], [0027], [0031], [0033], [0034], [0040], [0041]). McKinnon clearly discloses that the devices themselves may send SIP NOTIFY messages to presentities. It is also clear that the participating device sends NOTIFY messages from the participating device to its presentity on the presentity server to another participating device's presentity which in turn sends the NOTIFY messages to the another participating device to notify the participating device of its status. McKinnon clearly discloses the use of SIP and its associated messaging techniques to transmit notification messages, as well as other types of messages, from participating device (second resource) to another participating device (first resource).

Therefore, McKinnon does not send the SIP NOTIFY message from the second resource to the separate first resource to notify status of the second as well as sending the NOTIFY messages between presentities within the presence server.

Applicant argues "Regarding claims 5 and 6, the Office Action asserts that McKinnon discloses the presentity confirming that the ACD is registered with the presentity server and sending a SIP SUBSCRIBE message to the ACD requesting a SIP NOTIFY message from the ACD in paragraphs 0002; 0004; 0023; 0026; 0027; 0031; 0037; 0038 and 0039. However, paragraphs 0002; 0004; 0023; 0026; 0038; and 0039 do not even mention SUBSCRIBE messages... There is no mention of sending a SUBSCRIBE message in response to confirming registration, or of that SUBSCRIBE message requesting a NOTIFY message."

The Examiner respectfully disagrees; as stated in the previous Office Action, McKinnon clearly discloses the presentity confirming that the ACD is registered and sending a SIP

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SUBSCRIBE message to the ACD requesting a SIP NOTIFY from the ACD in paragraphs (paragraph [0023], [0037], [0038]). McKinnon clearly discloses a basic communication flow for a presence system is illustrated in FIG. 2. Initially, the presentity 16 will register with the presence server 14, and preferably provide initial state information (step 100). The registration will establish the presentity's ID, address, associated event sources 18, and requirements. Once registered, the presence server 14 will facilitate subscription of authorized watcher devices 12 to receive state information pertaining to the presentity 16. McKinnon also clearly discloses an exemplary message flow for a structured environment is provided in FIG. 6. Initially, presentities P1 and P2 will send SUBSCRIBE messages to presentity P3 of the focal device 26 to effectively register the participant devices 20 with the focal device 26 to receive state information (steps 400 and 402). Additionally, presentity P3 of the focal device 26 may elect to receive state information from presentities P1 and P2 by sending SUBSCRIBE messages thereto (steps 404 and 406). During operation, presentity P3 will receive event notifications from one or more event driver devices 22. Depending on the event notification, presentity P3 will process the information provided in the event notification and determine whether or not presentities P1 and P2 need to be sent notification in response to the event notification received from the event driver device 22. Thus, for a first event (EVENT 1) (step 408), presentity P3 determines that no notification to either presentity P1 or P2 is required. For a second event (EVENT 2) (step 410), presentity P3 determines there is a need to notify the presentities P1 and P2 by sending a NOTIFY message to presentities P1 and P2 (steps 412 and 414). Thus, presentity P3 of the focal device 26 may notify presentities P1 and P2 for associated participant devices 20 of state changes.

Therefore, McKinnon clearly teaches the presentity confirming that the ACD is registered and sending a SIP SUBSCRIBE message to the ACD requesting a SIP NOTIFY from the ACD.

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Furthermore, Applicant argues that paragraphs 0002; 0004; 0026; 0027; 0031; and 0039 do not teach the claimed feature and the argues that paragraphs 0002; 0004; 0026; 0038; and 0039 do not even mention SUBSCRIBE messages. The Examiner has cited paragraph [0002], [0004], [0026], [0027], [0031], [0038], and [0039] with respect to the claimed feature paragraphs [0027] and [0031] clearly discloses SIP SUBSRIBE messages while the clearly disclose the interaction between the devices. Applicant should not rely solely on the portions cited by the Examiner as teaching the claimed features. While a particular cited paragraph may not explicitly disclose SIP SUBSCRIBE/NOTIFY messages it is readily apparent that McKinnon is using SIP to communicate between the participating devices and therefore communication is done using SIP unless otherwise noted.

The Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the Applicant, in preparing the responses, to fully consider each of the cited references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage disclosed by the Examiner (Office Action dated 22JUN2010).

It appears that Applicant has failed to fully consider both the reference and the Examiner's remarks. The Examiner has responded in detail to Applicant's arguments in the previous Office Action. The Examiner has cited numerous portions of the reference in support of the rejection not all of them will mention specific elements such as SUBSCRIBE messages, NOTIFY messages when discussing the interactions of the various elements. However it is abundantly clear from the context

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and the references as a whole that SIP is being used to communicate between the various elements of the reference and therefore such message would be use even if they are not being explicitly stated.

For example, Applicant argues that there is no mention of sending a SUBSCRIBE message in response to confirming registration, or of that SUBSCRIBE message requesting a NOTIFY message. However it is clear from at least paragraph [0023] and [0031].

A basic communication flow for a presence system is illustrated in FIG. 2. Initially, the presentity 16 will register with the presence server 14, and preferably provide initial state information (step 100). The registration will establish the presentity's ID, address, associated event sources 18, and requirements. Once registered, the presence server 14 will facilitate subscription of authorized watcher devices 12 to receive state information pertaining to the presentity 16 (McKinnon; [0023]).

A "SUBSCRIBE" message may be used to subscribe to an application or service provided by a SIP endpoint. Further, "NOTIFY" messages may be used to provide information between SIP endpoints in response to various actions or messages, including REGISTER and SUBSCRIBE messages (McKinnon; paragraph [0031]).

It is clear at least these two paragraphs that the presentity 16 will register with the presence server 14 using SIP, that a SUBSCRIBE message may be used to subscribe to an application or service provided by a SIP endpoint and that NOTIFY messages may be used to provide information between SIP endpoints *in response to various actions or messages*, including REGISTER and SUBSCRIBE messages.

Therefore it is clear that McKinnon discloses sending a SUBSCRIBE message in response to confirming registration, or of that SUBSCRIBE message requesting a NOTIFY message

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Applicant argues that “Chaney describes determining a conference server with the lightest load but does not describe the claimed comparing of the load level to a threshold and determining that the ACD is unavailable if it exceeds the threshold. ... Wolff merely discloses I/O load balancing to a plurality of server nodes but does not compare ACD load level to a threshold to determine if the ACD is available.

The Examiner respectfully disagrees; as stated in the previous Office Action, in response to Applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). McKinnon clearly discloses determining the availability of the automatic call distributor (paragraph [0002], [0004], [0028], [0040]), Chaney clearly discloses wherein determining the availability of the automatic call distributor comprises comparing a loading level of the automatic call distributor (abstract, paragraph [0015], [0040]), and Wolff clearly discloses determining that the automatic distributor is unavailable when the loading level exceeds the threshold level and determining that the automatic distributor is available when the loading level does not exceed the threshold (abstract, column 2 lines 52-62, column 11 lines 34-41, column 25 lines 26-33 lines 48-53). McKinnon in general determines if a device is available and if it is not redirects the call to an available device (agent/telephone). Chaney clearly discloses redirecting a conference based on the load of the conference servers, the most lightly loaded being considered available and the more heavily loaded ones being considered unavailable. Finally, Wolff clearly discloses determining the utilization level of a first server and redirecting subsequent requests for at least one resource to a second server node amongst a plurality of server nodes in response to

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determining the utilization level of the first server, it is clear (particularly from Wolff; column 25 lines 26-33 lines 48-53) that a threshold is being used to determine the utilization of the server.

Therefore, the combination of McKinnon, Chaney, and Wolff clearly discloses comparing of the load level to a threshold and determining that the ACD is unavailable if it exceeds the threshold (Office Action dated 22JUN2010).

Chaney clearly discloses wherein determining the availability of the automatic call distributor comprises comparing a loading level of the automatic call distributor. McKinnon in general determines if a device is available and if it is not redirects the call to an available device (agent/telephone). Chaney clearly discloses redirecting a conference based on the load of the conference servers, the most lightly loaded being considered available and the more heavily loaded ones being considered unavailable and Wolff clearly discloses determining the utilization level of a first server and redirecting subsequent requests for at least one resource to a second server node amongst a plurality of server nodes in response to determining the utilization level of the first server.

The combination of McKinnon, Chaney, and Wolff clearly discloses comparing of the load level to a threshold (utilization threshold) and determining that the resource is unavailable if it exceeds the threshold.

Applicant argues that “Gray merely describes representing current user context to be utilized in call handling but does not disclose the claimed call classification application determining a call type.”

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Gray clearly discloses call

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classification application determining a call type (abstract, paragraph [0008], [0009], [0053]). Gray clearly discloses generating relevant information from incoming call messages and relating that to a user's current context (Gray; [0008]), identifying current user context and representing it in a way that can be utilized in call handling (Gray;[0009]), and an incoming event (e.g. Invite, etc.) is related to the current context of the user. Every event has associated with it some indicators that are pertinent to the user's call that provide evidence of the relevance, urgency and importance of the call to the user. Such indicators include caller identity, role relationship between caller and called party, group or project membership, location of user, current state of called user, subject of the call, and so on. Some of these evidential indicators are explicit in the call and some can be derived by inference from other indicators (e.g. awareness data, as discussed above). The context update block 9 uses opportunistic reasoning to develop the required evidence. This evidence is then supplied to the feature selection policies 11 for selecting a feature(Gray; [0053]). Gray is clearly using a classification application (policy engine 5) to determine the call type (as indicated by the indicators, caller identity, urgency, etc.).

Therefore, Gray clearly discloses call classification application determining a call type

Applicant argues that "...Gray and Wolff also fails to teach or suggest the above discussed features as well as the claimed use of queue length, loading of call routing application and a third resource."

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. It is noted that Gray and Wolff were not cited as teaching these features.

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McKinnon and Chaney clearly discloses use of queue length and loading of call routing application (defining the loading level as a call queue length (McKinnon et al. figure 7a, figure 7b, paragraph [0040], [0041] , [0042], [0043]; Chaney et al. abstract, paragraph [0015], [0040])).

McKinnon and Chaney clearly disclose loading level as a call queue length. McKinnon clearly discloses determining the number of calls in the queue and managing calls based on the amount of calls in the queue. If the queue is full the call is serviced by another available resource (telephone/agent). Chaney also discloses loading and determining if a resource (service provider) is overloaded directing a service request to the another resource that is able to handle the request. McKinnon and Chaney clearly disclose use of queue length and loading of call routing application.

McKinnon and Chaney clearly disclose a third resource (McKinnon; paragraph [0018], [0019], [0023], [0033], [0034], [0035], [0040], [0041], [0042]; Chaney; abstract, [0015], [0040])). McKinnon and Chaney clearly disclose requesting service from another resource when the resource the request was originally sent to was not available. In McKinnon the session is established with Telephone 3/Agent 3 when the call request cannot be completed by the originally requested Telephone/Agent. Similarly Chaney discloses sending traffic to the most lightly loaded service provided among a plurality of service providers. It is clear from both McKinnon and Chaney that a plurality of resources are available to service requests and that the “third” resource is merely another resource from the plurality of resource capable of servicing the request.

Therefore, use of queue length, loading of call routing application and a third resource are clearly taught by the prior art of record.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the Applicant, in preparing the responses, to fully consider each of the cited references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage disclosed by the Examiner.

With respect to any amendments to the claimed invention, it is respectfully requested that Applicant indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

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If Applicant intends to make numerous amendments the Examiner respectfully requests that Applicant submit a clean copy of the claims in addition to the marked up copy of the claims in order to expedite the examination process.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (See PTO-Form 892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL C. MURRAY whose telephone number is 571-270-1773. The examiner can normally be reached on Monday - Friday 0800-1700 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on (571)-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. C. M./
Examiner, Art Unit 2443

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/Tonia LM Dollinger/

Supervisory Patent Examiner, Art Unit 2443